IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.745 OF 2006
IN
CRIMINAL APPLICATION NO.8232 OF 2005

M/s Kotak Mahindra Bank Ltd. ...Applicant

Versus

Mr Hiten Khatau & Anr. ...Respondents

Ms Sangeeta Chaudhary i/by Revati Mohite-Dere for the Applicant.
Shri Hitesh Dabhi i/by Haresh Jagtiani & Associates for the Respondent No.1.
Mrs M.M. Deshmukh, A.P.P for the State.

CORAM : A. S. OKA, J.
DATE : NOVEMBER 23, 2006.

P.C.:

1. Heard the learned counsel for the Applicant and the learned counsel appearing for the first Respondent.

2. The first Respondent herein is arraigned as one of the accused in a complaint filed by the Applicant under section 138 read with section 141 of the Negotiable Instruments Act, 1991. Criminal Application No.8232 of 2005 was heard for admission on 03rd March, 2006. Rule was issued in the said Application and interim relief in terms of prayer clause (b) was granted. Prayer clause (b) reads thus:

> "(b) pending the hearing and final disposal of this Application, this Hon'ble

Court may kindly stay the proceedings being C.C.No.544 of 2003 pending on the files of the learned Chief Judicial Magistrate, Thane".

3. The learned Advocate appearing for the Applicant submits that the prayer for stay be confined to the Applicant in Criminal Application No.8232 of 2005 so that the case can proceed against the other accused persons. The said request, in my opinion, is a reasonable request. The order of stay cannot enure to the benefit of those accused who have not approached this Court. None appears for the first Respondent.

4. Hence, the Application is disposed of by the following order:

. Interim relief granted on 03rd March, 2006 in terms of prayer clause (b) is modified. It is made clear that the interim relief will apply only in favour of the Applicant in Criminal Application No.8232 of 2005 and the pending complaint can proceed against the other Accused.

JUDGE